

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**Nashville, Tennessee**

**November 12, 2003**

**IN RE:**

**IMPLEMENTATION OF THE FEDERAL  
COMMUNICATIONS COMMISSION'S  
TRIENNIAL REVIEW ORDER – 9  
MONTH PROCEEDING – SWITCHING**

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**DOCKET NO.  
03-00491**

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**ORDER GRANTING JOINT MOTION FOR ONE WEEK  
EXTENSION TO FILE MOTION TO COMPEL**

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This docket came before the Hearing Officer for consideration of the *Joint Motion for One Week Extension to File Motion to Compel* filed by BellSouth Telecommunications, Inc. ("BellSouth") and the Competitive Carriers of the South ("CompSouth")<sup>1</sup> on November 12, 2003.

In the motion, CompSouth and BellSouth jointly request a one-week extension to file motions to compel and the adjustment of other related dates. Specifically, the parties request the following adjustments to the procedural schedule contained in the October 27<sup>th</sup> *Order on October 21, 2003 Status Conference*: (1) motions to compel should be filed on November 20, 2003 rather than November 13, 2003; (2) responses to motion to compel should be filed on December 2, 2003 rather than November 20, 2003; (3) the order on the motions to compel should be issued on December 10, 2003 rather than November 26, 2003; and (4) supplemental responses

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<sup>1</sup> CompSouth includes the following telecommunications providers: Access Integrated Networks, Inc.; MCI; Birch Telecom; Business Telecom, Inc.; Covad; Cinergy Communications Company; AT&T; NewSouth Communications, Corp.; Talk America; Nuvox Communications, Inc.; ITC^DeltaCom; Xspedius Communications; Momentum Business Solutions; Cinergy Communications Company; Network Telephone Corp.; KMC Telecom; Z-Tel Communications, Inc.; and IDS Telecom LLC

to discovery should be filed on December 20, 2003<sup>2</sup> rather than December 10, 2003. In support of their motion, movants assert that the additional time is needed to respond to the numerous objections and attempt to negotiate settlements of some objections. Movants also state that they notified counsel for United Telephone Southeast, Inc. and the Consumer Advocate and Protection Division of the Office of the Attorney General and that neither party expressed an objection to this motion.

The Hearing Officer finds that the motion is well-taken. Over twenty companies, including BellSouth and various CompSouth members, have filed objections to many of the requests for production of documents and the interrogatories. The additional time should permit the parties to resolve some of their differences, and in those instances when settlement is not possible, allow for the preparation of thorough and well-supported motions to compel.

It should be noted, however, that all parties were not notified of this motion in advance of its filing. Specifically, the motion does not mention Time Warner Telecom of the Mid-South, LLC, Electric Power Board of Chattanooga, Citizens Telecommunications Company of Tennessee, LLC, TDS Telecom or Qwest Communications, Inc. While it does not appear that movants' request will prejudice any party, those parties that did not receive notification of the motion prior to its filing and which were essentially precluded from filing written objections as a result of the filing date of the motion should not be prevented from asserting prejudice or other objections at a later date if they so choose. Movants should attempt in the future to contact all parties to ascertain whether there are objections when filing a motion on a date that does not permit a reasonable opportunity for the filing of written responses to the motion.

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<sup>2</sup> Given that December 20, 2003 is a Saturday, the Hearing Officer will assume that the movants intended the due date to be Monday, December 22, 2003. If this assumption is incorrect, the movants shall file a motion for reconsideration immediately.

**IT IS THEREFORE ORDERED:**

1) The *Joint Motion for One Week Extension to File Motion to Compel* is granted such that the procedural schedule contained in the October 27<sup>th</sup> *Order on October 21, 2003 Status Conference* is modified as follows:

**Motions to Compel Filed ..... Thursday, November 20, 2003**  
**Responses to Discovery Requests Served on Parties**  
**& Filed with TRA.....Monday, November 24, 2003**  
**Responses to Motions to Compel.....Tuesday, December 2, 2003**  
**Order on Motions to Compel Issued ..... Wednesday, December 10, 2003**  
**Second Motions to Compel & Statement from ILECs of**  
**Geographic Areas Where Impairment Will Not Be Contested ..Monday, December 15, 2003**  
**Second Responses to Motions to Compel.....Friday, December 19, 2003**  
**Supplemental Responses to Discovery .....Monday, December 22, 2003**  
**Order on Motions to Compel Issued .....Friday, January 2, 2004**  
**Second Supplemental Discovery Responses ..... Friday, January 9, 2004**  
**Direct Testimony .....Friday, January 16, 2004**  
**Rebuttal Testimony.....Friday, February 27, 2004**  
**Surrebuttal Testimony..... Wednesday, March 17, 2004**  
**Hearing.....Monday, March 29, 2004 at 9:00 a.m. through April 2, 2004**  
**Direct Post-Hearing Briefs ..... Tuesday, April 20, 2004**  
**Reply Post-Hearing Briefs..... Wednesday, May 5, 2004**

2) Any motions for reconsideration shall be filed within fifteen (15) days of the issuance of this order.

  
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Ron Jones, Director  
As Hearing Officer<sup>3</sup>

<sup>3</sup> During the September 22, 2003 Authority Conference, a panel of the Tennessee Regulatory Authority consisting of Chairman Deborah Taylor Tate and Directors Pat Miller and Ron Jones unanimously voted to appoint Director Ron Jones as the Hearing Officer to prepare the switching portion of this case for a hearing by the panel. Transcript of Proceedings, Sept. 22, 2003, pp. 73-75 (Authority Conference).